

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

John Demjanjuk,

Petitioner,

V.

Eric H. Holder, Attorney General of
the United States,

Respondent.

No. 09-3416

PETITIONER’S RESPONSE TO RESPONDENT’S MOTION TO DISMISS

Petitioner, John Demjanjuk, hereby responds to the respondent's motion to dismiss filed April 20, 2009.

Respondent's motion to dismiss contends that this proceeding seeking review of the BIA's April 10, 2009 decision denying Mr. Demajanjuk's motion for emergency stay is moot in view of the entry by the BIA of a decision denying Mr. Demjanjuk's motion to reopen. Petitioner is in substantial agreement with Respondent's position, and agrees that this proceeding should be dismissed as moot.

Respondent has filed a petition for review of the BIA's April 15 decision denying Mr. Demjanjuk's motion to reopen. That petition for review has been

docketed as No. 09-3469. Any substantive issues remaining in this proceeding are raised in the new proceeding and can be litigated without addressing the complex jurisdictional issues raised in this proceeding.

Wherefore, petitioner, John Demjanjuk, hereby consents to the dismissal of this proceeding, without prejudice to his right to raise any issues in No. 09-3469 that might also be presented in this proceeding.

Respectfully submitted,

JOHN DEMJANJUK

By: /s John Broadley
One of his attorneys

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Dated: April 23, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April 2009, the foregoing PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s John Broadley
John Broadley
Attorney for John Demjanjuk

Dated: April 23, 2009